

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Arthur Albano	Team: Squad #3	CCRB Case #: 201405367	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Sunday, 06/01/2014 4:00 AM	Location of Incident: § 87(2)(b)	Precinct: 45	18 Mo. SOL 12/1/2015	EO SOL 12/1/2015	
Date/Time CV Reported Mon, 06/02/2014 4:48 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 06/02/2014 4:48 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POF Stephanie Davis	28218	930371	DB BX
2. POM Steven Lichtig	05508	933931	045 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POF Stephanie Davis	Abuse: PO Stephanie Davis refused to provide her name and/or shield number to § 87(2)(b)	§ 87(2)(b)
B.POM Steven Lichtig	Abuse: PO Steven Lichtig refused to provide his name and/or shield number to § 87(2)(b)	§ 87(2)(b)
C.POF Stephanie Davis	Force: PO Stephanie Davis used a chokehold against § 87(2)(b)	§ 87(2)(b)
D.POF Stephanie Davis	Discourtesy: PO Stephanie Davis spoke rudely to § 87(2)(b)	§ 87(2)(b)
E.POM Steven Lichtig	Force: PO Steven Lichtig used force against § 87(2)(b)	§ 87(2)(b)

Case Summary

On June 1, 2014, § 87(2)(b) had responded to a text message from a church friend of an old picture of herself. She ended the message with “You can get the gun now.”

At approximately 11:45 p.m. that same night, § 87(2)(b) was inside her home, § 87(2)(b), in the Bronx, and answered a doorbell to two EMTs. The EMTs told her that they received a 911 call from her pastor, § 87(2)(b), who stated that § 87(2)(b) had threatened to commit suicide (Board Review 01). § 87(2)(b) refused to go, and told them multiple times that she was fine.

PO Stephanie Davis (“Stephanie Alvarez” at the time of the incident) and PO Stephen Lichtig, of the 45th Precinct responded and attempted to convince her to go to the hospital, but § 87(2)(b) yelled at the officers that she didn’t want to go. § 87(2)(b) allegedly asked for PO Lichtig’s and PO Davis’ names and shield numbers five to six times throughout the interaction, and each time they allegedly ignored her request (**Allegation A and B**).

§ 87(2)(b) then remembers sitting on a chair in her kitchen, and yelling at PO Davis, “You fucking choked me,” and PO Davis allegedly responded “Well you kicked me.” (**Allegation C**). § 87(2)(b) stated that she then yelled, “Why did you choke me you fat bitch?” and PO Davis allegedly responded, “I may be a fat bitch, but at least I have a man and you don’t.” (**Allegation D**). Suddenly PO Lichtig allegedly grabbed § 87(2)(b) from behind by both of her arms, and pushed § 87(2)(b) to the floor (**Allegation E**). She then recalls PO Lichtig placing her hands behind her back, and due to her weight leaning forward, she landed face-first on the floor. The right side of § 87(2)(b) forehead made contact with the ground (within **Allegation E**). (Board Review 02)

§ 87(2)(b) was then transported to § 87(2)(b), where she underwent psychiatric evaluation. She was then taken to the radiology department where an X-ray of her wrists was conducted finding no evidence of dislocation or fracture.

§ 87(2)(b) takes multiple medications, including psychiatric medications. § 87(2)(b) has been taking her medications regularly as prescribed. § 87(2)(b) also stated that she was suffering from depression, which was triggered by the text message that she received earlier in the day.

Mediation, Criminal, and Civil Histories

- Due to the fact that § 87(2)(b) suffered a personal injury, § 87(2)(b) complaint was unsuitable for mediation.
- There is no arrest record for § 87(2)(b) in the NYPD’s Booking Arraignment and Dispositions System (BADS).
- A notice of claim inquiry was submitted to the New York City comptroller’s office on May 12, 2015. A response to this inquiry will be included in the case file upon its receipt.

Civilian and Officer CCRB Histories

- This is the first case filed by or involving § 87(2)(b)
- PO Lichtig has been a member of the service for 11 years, and this is the first complaint filed against him.
- PO Davis has been a member of the service for 12 years, there are no substantiated CCRB allegations against her. This is the second complaint filed against her.

Potential Issues

Three subpoenas were sent to the FDNY court desk to produce the EMTs that responded to this incident. The subpoenas listed the EMTs by name and referenced this incident by date, time, and

FDNY SPRINT number. After the first request, the FDNY court desk claimed that they did not receive the subpoena, and the two subsequent subpoenas went unanswered by the FDNY. Due to the age of the case, and the amount activity of EMTs in New York, it is likely that they would not recall this incident, almost a year after the incident date. Therefore, attempts to schedule the EMTs were terminated. § 87(2)(g)

Identification of Subject Officers

- PO Davis and PO Lichtig both admitted to being the only officers that responded to this incident. § 87(2)(b) stated that there was only two officers present during this incident, and alleged that both refused her request for their names and shield numbers. § 87(2)(b) also alleged that the female officer was the one that choked her and stated, “I may be a fat bitch, but at least I have a man,” and the male officer used force to bring her to the ground and place her in handcuffs. § 87(2)(g)

Findings and Recommendations

Allegation A- Abuse of Authority- PO Stephanie Davis refused to provide her name and/or shield number to § 87(2)(b)

Allegation B- Abuse of Authority- PO Steven Lichtig refused to provide his name and/or shield number to § 87(2)(b)

§ 87(2)(b) stated that she requested PO Davis’ and PO Lichtig’s name and shield number five or six times throughout the incident, and was repeatedly ignored by PO Davis and PO Lichtig. § 87(2)(b) stated that he did not pay attention to the verbal interaction between officers and § 87(2)(b) because he spoke a limited amount of English. According to PO Davis, § 87(2)(b) requested PO Davis’ and PO Lichtig’s name and shield number multiple times, and both officers verbally provided their names and shield numbers to § 87(2)(b) however due to her heightened state, it did not appear that their responses were registering with her (Board Review 03). PO Lichtig did not recall whether § 87(2)(b) requested their names and shield numbers during the incident, or whether the officers provided it to § 87(2)(b).

It should be noted that § 87(2)(b) was unable during her CCRB interview to provide any statements made to her by officers, other than PO Davis’ alleged discourtesy. She also stated that due to the stress of this incident, there were significant spans within this incident that § 87(2)(b) could not remember.

§ 87(2)(g)

Allegation C- Force- PO Stephanie Davis used a chokehold against § 87(2)(b)

Allegation D- Discourtesy- PO Stephanie Davis spoke rudely to § 87(2)(b)

It is undisputed that both PO Lichtig and PO Davis used physical force to restrain § 87(2)(b). It is also undisputed that § 87(2)(b) called PO Davis a "fat bitch." § 87(2)(g)

§ 87(2)(g) § 87(2)(b) did not have a clear recollection of the incident and had experienced lapses of memory due to the high stress of the incident. Therefore, § 87(2)(b) could not provide a complete and cohesive narrative of the incident. § 87(2)(b) did not specifically recall being choked by any officer. She recalled sitting in her kitchen with PO Davis in front of her while she yelled to PO Davis, "You fucking choked me," followed by PO Davis' alleged response, "Well, you kicked me." § 87(2)(b) stated that she then called PO Davis a "fat bitch" and PO Davis responded, "I may be a fat bitch, but at least I have a man and you don't." Shortly thereafter, § 87(2)(b) stated that the officers used physical force to bring her to the ground, and handcuff her.

§ 87(2)(b) step-son, corroborated that § 87(2)(b) was placed in a chokehold.

§ 87(2)(g) According to § 87(2)(b) the initial physical contact between the officers and § 87(2)(b) was her being brought to the ground by both officers, in an attempt to restrain her. Then PO Davis, from behind, grabbed § 87(2)(b) by her throat.

The piecemeal narrative provided by § 87(2)(b) suggests that the initial point of physical contact was a choke, and that she was choked from the front of her body while sitting upright. § 87(2)(g) § 87(2)(b)'s statement that § 87(2)(b) was choked from behind after physical force was already initiated and while she was being actively restrained by multiple officers on the floor.

Additionally, § 87(2)(b) does not speak English and stated that he was not paying attention to the specific statements made between the officers' and § 87(2)(b) throughout the incident (Board Review 04).

PO Davis and PO Lichtig (Board Review 05) were consistent with the fact that as PO Davis was speaking to § 87(2)(b) she kicked PO Davis in the shin. Both denied that PO Davis had any retaliatory reaction to being kicked, or that she ever made contact with § 87(2)(b) throat or windpipe, even as she was brought to the floor and restrained. PO Davis and PO Lichtig were consistent that § 87(2)(b) was very vulgar towards PO Davis throughout the incident, and stated that § 87(2)(b) called PO Davis a "fat bitch." However, both officers denied that PO Davis ever stated, "At least I have a man and you don't."

§ 87(2)(b) received psychiatric treatment after this incident, though did not get treated for any physical injuries to her neck. § 87(2)(b) complained of pain to her neck, but did not say that she was choked by police. § 87(2)(b) provided photograph of her neck and collar as evidence of the chokehold (Board Review 06). However, the photograph presented was some superficial abrasions which were just as consistent with her upper chest making contact with the ground, as physical contact with her neck.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation E- Force- PO Steven Lichtig used physical force against § 87(2)(b)

The fact that PO Lichtig used physical force against § 87(2)(b) is undisputed. It is undisputed that the force addressed in these allegations occurred after § 87(2)(b) kicked PO Davis in the shin. According to § 87(2)(b) PO Lichtig grabbed § 87(2)(b) from behind by both of her arms, and pushed § 87(2)(b) to the ground. PO Lichtig maintained contact with § 87(2)(b) arms until she hit the ground. § 87(2)(b) recalls her right knee hitting the ground first, and her left leg outstretched behind her. § 87(2)(b) stated that due to her Myalgia, her entire body was in pain, so she did not struggle. She then recalls PO Lichtig placing her hands behind her back, and due to her weight leaning forward, § 87(2)(b) forehead made contact with the ground. § 87(2)(b) does not recall any additional force used by PO Lichtig. § 87(2)(b) then remembers sitting in a wheelchair or bed, and being placed in an ambulance.

Both PO Lichtig and PO Davis corroborate the force as explained by § 87(2)(b) stating that PO Lichtig performed a controlled takedown of § 87(2)(b) and both officer placed § 87(2)(b) in handcuffs.

According to NYPD Patrol Guide Procedure 203-11 Officers are required to use the minimum necessary force to overcome resistance. Whenever it becomes necessary to take a violent or resisting subject into custody, responding officers should utilize appropriate tactics in a coordinated effort to overcome resistance (Board Review 07).

§ 87(2)(g)

§ 87(2)(g)

Pod: _____

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date